

**WHEN RECORDED MAIL TO:**

Fulbright & Jaworski, L.L.P.  
865 South Figueroa Street  
Twenty-Ninth Floor  
Los Angeles, CA 90017-2576  
Attention: Philip Nelson Lee, Esq.

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**ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT**

**BY AND AMONG**

**STEADFAST PARK HEIGHTS, L.P.,  
A CALIFORNIA LIMITED PARTNERSHIP  
As the Transferor,**

**CAPITAL FORESIGHT-INLAND EMPIRE, L.P., A CALIFORNIA LIMITED  
PARTNERSHIP  
As the Transferee,**

**COUNTY OF SAN BERNARDINO,**

**JPMORGAN CHASE BANK  
As the Trustee**

**And**

**\$5,520,000  
County of San Bernardino, California  
Multifamily Housing Revenue Refunding Bonds  
1998 Series A (Nova Park Heights Apartments)**

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\$5,520,000  
County of San Bernardino, California  
Multifamily Housing Revenue Refunding Bonds  
1998 Series A (Nova Park Heights Apartments)

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**ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT**

This Assignment and Assumption Agreement (the "**Agreement**") is entered into as of November \_\_, 2002, by and among STEADFAST PARK HEIGHTS, L.P., A CALIFORNIA LIMITED PARTNERSHIP (the "**Transferor**" or "**Owner**"), CAPITAL FORESIGHT-INLAND EMPIRE, L.P., A CALIFORNIA LIMITED PARTNERSHIP (the "**Transferee**"), the COUNTY OF SAN BERNARDINO (the "**County**"), and JPMORGAN CHASE BANK, a state banking corporation duly organized and existing under the laws of the State of New York (the "**Trustee**"), as the successor by merger to The Chase Manhattan Bank, as successor by merger to The Chase Bank of Texas, National Association under that certain Trust Indenture (the "**Indenture**"), dated as of September 1, 1998, between the County and the Trustee, in respect of the County's \$5,520,000 County of San Bernardino, California Multifamily Housing Revenue Refunding Bonds 1998 Series A (Nova Park Heights Apartments) (the "**Bonds**").

**RECITALS**

WHEREAS, the proceeds of the Bonds were loaned to the Transferor as the borrower pursuant to the terms of a Loan Agreement dated as of September 1, 1998 (the "Loan Agreement"), between the County, the Trustee and the Transferor, for the purposes of refinancing the construction and development of a multifamily residential housing development known as Nova Park Heights Apartments, located on the real property site in the County described in Attachment 1 hereto (the "Project");

WHEREAS, pursuant to the terms of an Agreement for Purchase and Sale Of Real Property and Joint Escrow Instructions, dated as of September 26, 2002, as amended (the "Sale Agreement"), between Naty Saidoff ("Saidoff") and the Transferor, the Transferor proposes to transfer ownership of the Project to the Transferee, which was assigned and accepted all rights and interest in and to the Sale Agreement by Saidoff pursuant to that certain Assignment of Purchase Contract, between Saidoff and Capital Foresight-Inland Empire, L.P., a California limited partnership, Saidoff Enterprises, LLC, a Delaware limited liability company, General Partner and Naty Saidoff, Manager ;

WHEREAS, capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Loan Agreement;

WHEREAS, in conjunction with the issuance of the Bonds, the Transferor entered into a number of agreements including, without limitation, the following:

1. Loan Agreement;

2. Amended and Restated Regulatory Agreement and Declaration of Restrictive Covenants dated as of April 1, 1990, and recorded on April 18, 1990 in the official records of San Bernardino, California, as Instrument No. 90-148037, among the County, the predecessor in interest to the Trustee, and the predecessor in interest to the Transferor (the "Original Regulatory Agreement");
3. Amendment To Regulatory Agreement, dated as of September 1, 1998 (the "First Amendment Regulatory Agreement," together with the Original Regulatory Agreement," the Regulatory Agreement) by and among the County, the Trustee and the Transferor;
4. Multifamily Deed of Trust, Assignment of Rents and Security Agreement, including the Rider to Multifamily Instrument, dated September 28, 1998, executed by the Transferor, as referenced in the Indenture and recorded in the Official Records County of San Bernardino, California on September 29, 1998 as Instrument No. 1998- \_\_\_\_\_ (the "Deed of Trust") that secured the Transferor's obligations under the documents relating to the Bonds.
5. Multifamily Note, including the Addendum to Multifamily Note, dated September 29, 1998 in the original principal amount of \$5,520,000 executed by the Transferor (the "Note").
6. Arbitrage and Tax Certification signed by the County and the Transferor, dated September 29, 1998.

(The documents referred to in Paragraphs 1 through 3, above, are hereinafter referred to as the "Loan Documents");

WHEREAS, when the Bonds were issued credit enhancement was provided by Dynex Commercial Inc. ("Funding Facility Provider") and upon the occurrence of event that triggered its obligation to purchase the Bonds, the Funding Facility Provider did so in conjunction with the sale of such purchased Bonds to Newman Financial Services, Inc., the present owner of the Bonds (the "Bondholder");

WHEREAS, in addition to the Loan Documents and in order to facilitate the refinancing of the Project, the Transferor and Funding Facility Provider, entered into several additional documents (the "Additional Loan Documents") under which the Bondholder assumed all rights, duties and responsibilities;

WHEREAS, simultaneous with the execution of this Agreement the Transferor shall prepay the loan (the "Loan") referenced in the Loan Agreement, shall take or cause to be taken such action as is necessary to cause the Trustee to redeem in whole the Bonds, and in connection with the prepayment of

the Loan and the redemption of the Bonds, the Loan Agreement, the Deed of Trust, all documents and agreements executed in connection with the Loan Agreement except the Regulatory Agreement shall be cancelled and/or reconveyed;

WHEREAS, pursuant to the terms of Sections 2(d) of the Regulatory Agreement, the Transferor is required to set aside 20% of the units (the "Set Aside Units") of the Project for Low and Moderate Income Tenants at Affordable Rent (incomes at 80% of the median household income for the area and rent cannot exceed 30% of the income limit) and throughout the Qualified Project Period<sup>1</sup> as defined in Regulatory Agreement, such units shall be continuously occupied, or held vacant and available for occupancy, by Low and Moderate Income Tenants at Affordable Rent;

WHEREAS, pursuant to Section 2(g) of the Regulatory Agreement, the Transferor shall not sell, transfer or otherwise dispose of the Project without the prior written consent of the County, which consent shall not be unreasonably withheld, as long as the requirements of Section 2(g) are satisfied<sup>2</sup>;

WHEREAS, the Transferor and the Transferee have requested the County to consent to the transfer of the Project as provided in the Regulatory Agreement;

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<sup>1</sup> Qualified Project Period is defined in the Regulatory Agreement to mean " the period beginning on the latest of (i) the Bond Issuance Date or (ii) the first day on which at least 10% of the dwelling units in the Project first are occupied and ending on the latest of (a) the date that is fifteen years after the date on which at least 50% of the units in the Project are occupied; (b) the first day on which no Bonds or other private activity bonds (as defined in the Code) issued with respect to the Project are outstanding; and (c) the termination date of the housing assistance payments contract, including the initial term and any renewal thereof, if the Project is funded under Section 8 of the United States Housing Act of 1937, as amended." Estimated time for Qualified Project Period to expire is February 27, 2008, calculated as follows: (i) the Bonds were originally issued to finance the Project on May 8, 1984 (estimated from recordation date of the initial Regulatory Agreement); (ii) the first unit was rented on July 1, 1985 [Estimated]; (iii) ten percent of the units were first rented on September 1, 1985 [Estimated]; (iv) fifty percent of the units were rented on February 1, 1986 [Estimated]; and (v) the maturity date of the Bonds is August 25, 2029.

<sup>2</sup> For the Required Rental Period, the Owner shall not sell, transfer or otherwise dispose of the Project, (other than for individual tenant use as contemplated hereunder) in whole or in part, without the prior written consent of the Administrator on behalf of the Issuer, which consent shall be given promptly provided that (1) the Owner shall not be in default hereunder, (2) the continued operation of the Project shall comply with the provisions of this Agreement, (3) the purchaser or assignee shall be willing and capable of complying with the terms and conditions of this Agreement, (4) the purchaser or assignee shall execute any document requested by the Issuer and the Trustee with respect to the assumption of the Owner's obligations under this Agreement, including without limitation an instrument of assumption hereof; shall deliver a copy thereof to the Trustee and shall deliver to the Issuer an opinion of its counsel to the effect that each such document and this Agreement are valid, binding and enforceable obligations of such purchaser or assignee, (5) the Issuer shall not have any reason to believe that the purchaser or assignee is incapable, financially or otherwise, of complying with, or may be unwilling to comply with, the terms of all agreements binding on such purchaser or assignee relating to the Project, (6) the Owner shall pay to the Issuer its reasonable fees and expenses, (including without limitation, allocable internal costs and fees and expenses of County Counsel and Bond Counsel) in conjunction with such sale, transfer or other disposition of the Project, and (7) such other conditions are met as the Issuer may reasonably impose, including without limitation, if requested by the Issuer receipt by the Issuer of an opinion of Bond Counsel to the effect that any such sale, transfer or other disposition will not cause interest on the Bonds to be includable in gross income of the holders thereof for Federal income tax purposes.

WHEREAS, the Transferee desires to assume all of Transferor's right, title, interest and duties related to the Project and that certain Regulatory Agreement on the Sale Closing Date;

WHEREAS, the Transferee has requested that the Deed of Trust and other documents be reconveyed, removed or otherwise amended as necessary in light of the intention to redeem the Bonds on the Closing Sale Date;

WHEREAS, the County proposes to consent to the transfer of the Project to Transferee, the assignment and assumption by Transferee provided herein, and to the reconveyance or modification of other documents as described herein;

WHEREAS, the Trustee, at the direction of the County and the Bondholder Representative, proposes to take any and all actions reasonably necessary to facilitate the completion of the transaction contemplated by this Agreement, including the redemption of the Bonds on the Bond Closing Date; and

WHEREAS, the Transferee has agreed to pay to the County and the Trustee their reasonable fees and expenses (including, without limitation, allocable internal costs and fees and expenses of counsel to the County and the Trustee and bond counsel) in conjunction with such sale, transfer or other disposition of the Project.

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, the parties hereto hereby agree as follows:

Section 1. Assignment and Assumption of Assumed Obligations

Transferor hereby assigns to the Transferee, and the Transferee hereby fully and unconditionally accepts and assumes, all of the rights, duties and obligations of Transferor in and under the [Regulatory Agreement] [Loan Documents and the Additional Loan Documents] arising or accruing from and after November \_\_, 2002 (the closing date of the sale of the Project under the Sale Agreement) (the "Sale Closing Date") and under the Regulatory Agreement and certain sections, including, without limitation, Article VI of the Loan Agreement that sets forth certain indemnification provisions in favor of the Trustee and County (collectively, the "Assumed Obligations"), and agrees to perform such obligations in accordance with the terms thereof. The Transferee agrees to be bound in every way by all of the grants, terms, conditions, and covenants in respect of Transferor contained in the Assumed Obligations. Nothing in this Agreement is intended or shall be construed to impose upon any [general or limited partner][member] of the Transferee personal liability for any of the Assumed Obligations pursuant to this Agreement which are non-recourse obligations under the terms of the Regulatory Agreement or the applicable provisions of the Loan Documents and the Additional Loan Documents, it being expressly agreed that such Assumed Obligations shall remain subject, in all respects, to such provisions of the Loan Documents and the Additional Loan Documents limiting the liability of the Developer (as defined in the Loan Agreement) as and to the extent set forth in the Loan Documents and such revisions limiting liability shall be equally applicable to Transferee. It is expressly agreed that, notwithstanding any other provision of this Agreement, the Assumed Obligations shall not include any indemnification obligations

under the Loan Documents and the Additional Loan Documents to the extent that the events, actions, or failures to act which gave rise to such obligations took place prior to the Sale Closing Date.

[The Transferor represents that there has been no transfers or changes in the Transferor or the Bonds in the last six months. In addition, the Transferee covenants that no transfer of federal tax ownership of the Project or changes with respect to the Bonds will take place during the six-month period beginning on the November \_\_, 2002 without an approving opinion of bond counsel.---Note: not needed if Bonds redeemed.]

## Section 2. Consent and Release

2.1 The County hereby consents to the assignment and assumption made by the Transferor and Transferee herein, as well as to the transfer of the Project from Transferor to Transferee as contemplated herein and direct the Trustee to execute this Agreement and the other instruments and agreements contemplated hereby and take any and all actions necessary to facilitate the completion of the transaction contemplated by this Agreement. By its execution of this Agreement, the County acknowledges and confirms that all conditions precedent to transfer of the Project and assignment and assumption of the Assumed Obligations as set forth in the Regulatory Agreement and the Loan Documents have been satisfied or waived, including, without limitation, the requirements of Sections 2(d) of the Regulatory Agreement and Article VI of the Loan Agreement. By their execution of this Agreement, County and Trustee each acknowledge and confirm that, other than those set forth in Exhibit A hereto, as of the date hereof, to their respective actual knowledge (without any duty to investigate and not including implied knowledge), there exists no event of default under the Loan Documents, there exists no event which would give rise to an indemnification obligation by Transferor (including without limitation an indemnification obligation under Article VI of the Loan Agreement, and that there is no event that, with giving of notice, the passage of time, or both, would constitute an event of default or give rise to such an indemnification obligation.

2.2 Except as provided herein, the County and the Trustee hereby fully and unconditionally release Transferor from all duties and obligations under the Loan Documents and any other documents executed by the Transferor in connection with the Bonds, except for any of Transferor's indemnification obligations under the Loan Documents to the extent that the events, actions, or failures to act which gave rise to such obligations took place prior to the Sale Closing Date. Transferor acknowledges and agrees that the County and Trustee have only released Transferor from Transferor's indemnification obligations under the Loan Documents to the extent that Transferee has assumed such indemnification obligations, pursuant to the terms hereof, for events, actions, or failures to act which give rise to such indemnification obligations which take place after the Sale Closing Date.

2.3 The County hereby consents to the modification of the Loan Documents, the Additional Documents and any related documents in order to facilitate the transfer contemplated by this Agreement; provided, such modification shall in no way modify the obligations, duties and responsibilities of the County with respect to the financing related to the Project.

2.4 The Bondholder will deliver a written certificate to the County and the Trustee pursuant to which it will consent to the call and redemption of the Bonds, and specifically waive any notice and any requirement for the delivery of notice as set forth in the Indenture and the related Bond with respect to the financing of the Project.

### Section 3. Miscellaneous Provisions

3.1 Transferor represents and warrants to each of the County, the Trustee and the Transferee that, as of the date hereof, other than those set forth in Exhibit A hereto, there exists no event of default under the Loan Documents and that there is no event that, with the giving of notice, the passage of time, or both, would constitute an event of default. The foregoing representations and warranties shall survive transferee's acquisition of the Project.

3.2 The Transferee agrees to promptly pay to the County and the Trustee their reasonable fees and expenses (including, without limitation, allocable internal costs and fees and expenses of counsel to the County and the Trustee and bond counsel) as set forth in Exhibit B in conjunction with the negotiation and extension of this Agreement and the other instruments and agreements contemplated herein.

3.3 The Transferor and Transferee agree to promptly record the transfer of the Project in the Official Records of County of San Bernardino, California ("Recorder's Office").

3.4 This Agreement may be executed in one or more counterparts, each of which shall be an original and all of which shall constitute but the same instrument.

3.5 This Agreement shall be governed exclusively by and construed in accordance with the laws of the State of California.

\$5,520,000  
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1998 Series A (Nova Park Heights Apartments)

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IN WITNESS WHEREOF, the parties hereto have executed this **ASSIGNMENT AND ASSUMPTION AGREEMENT** as of the date and year first set forth above.

**TRANSFeree:**

**CAPITAL FORESIGHT-INLAND EMPIRE, L.P.,**  
a California limited partnership,  
as to an undivided 50 percent interest

By: **Saidoff Enterprises, LLC,**  
a Delaware limited liability company,  
General Partner

By: \_\_\_\_\_  
Naty Saidoff,  
Manager



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**[CONTINUATION OF SIGNATURES TO  
ASSIGNMENT AND ASSUMPTION AGREEMENT]**

**TRANSFEROR:**

**STEADFAST PARK HEIGHTS, L.P.**, a California limited partnership

By: **FOUNDATION FOR SOCIAL RESOURCES, INC.**,  
a Delaware non-profit corporation,  
its Managing General Partner

By: \_\_\_\_\_  
William W. Hirsch, its President

By: **STEADFAST PH, LLC**,  
A Delaware limited liability company,  
its Administrative General Partner

By: **H.S.C. Partners No. 3**, a California general  
Partnership, its Manager

By: **Newport PLC Holdings, LLC**,  
a Delaware limited liability company,  
its Managing General Partner

By: \_\_\_\_\_  
Rodney F. Emery, its Manager

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**[CONTINUATION OF SIGNATURES TO  
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**COUNTY:**

COUNTY OF SAN BERNARDINO

By: \_\_\_\_\_

Thomas R. Laurin, Director  
Department of Economic and Community Development

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**[CONTINUATION OF SIGNATURES TO  
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**TRUSTEE:**

JPMORGAN CHASE BANK,  
as Trustee

By: \_\_\_\_\_  
Authorized Officer

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**ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT**

**EXHIBIT A**

Dated as of November \_\_, 2002

Defaults And Events that, with the giving of notice,  
the passage of time, or both, would constitute an Event of Default

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**ASSIGNMENT, ASSUMPTION AND CONSENT AGREEMENT**

**EXHIBIT B**

Dated as of November \_\_, 2002

Unpaid Fees and Expenses

<u>Description</u>	<u>Amount</u>
County Processing Fee	\$_____
Administrative Fee <sup>3</sup>	\$_____
County Counsel	\$_____
Bond Counsel's Legal Services Fee and Expenses	\$_____

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<sup>3</sup> The County acts the Administrator for the Project and Section 4.3 of the Loan Agreement defines the "Administration Fee" as an annual fee equal to 0.25% of the original principal amount of the Bonds, payable on September 29, 1998, and on each September 1 thereafter, for the greater of the Qualified Project Period (as defined in the Regulatory Agreement), or as long as the Bonds are outstanding. Other fees payable to the to the Servicer for which the Transferor is responsible are (a) all expenses required to be paid to the County under the Loan Agreement and under the Indenture (including the reasonable fees and expenses of their counsel and consultants) incurred at any time in connection with the financing of the Project or the Bonds, including, without limitation, counsel fees and expenses incurred in connection with the interpretation, performance, enforcement or amendment of the Financing Documents, the Mortgage Documents or any other documents relating to the Project or the Bonds or in connection with questions or other matters arising under such documents or in connection with any federal or state tax audit, in each case not later than thirty (30) days after receipt of invoices rendered to the Borrower, with a copy to the Servicer with respect to clauses (i) and (ii) above, by the Issuer. Notwithstanding anything herein to the contrary, the Borrower shall not be required to pay any amounts to the Servicer or the Trustee relating to the Trustee's fee and expenses.

Notwithstanding the provisions related to the Administrative Fee described in the immediately preceding paragraph, the County and the Borrower have agree under the Loan Agreement that for the period commencing on September 29, 1998 through and including September 29, 2003 (such date may be extended in writing at the sole discretion of the County and the County shall not be obligated to consent to any extension whatsoever), the Borrower may elect to pay one-half or more of the Administrative Fee that is due. If the Borrower elects to defer a portion of the Administrative Fee, then the deferred portion of the Administrative Fee (not to exceed one-half of Administrative Fee annually due) will be due in full on September 29, 2004, at which time the Borrower shall be required to pay in whole the deferred amount of the Administrative Fee, plus the amount of the Administrative Fee due on such date. However, in the event that the Borrower transfer title to a non-related party prior to the completion of the deferred Administrative Fee period, then such deferred amount shall be due and payable in full on or prior to the date of such transfer of title.

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Trustee Extraordinary Fee \$\_\_\_\_\_

Trustee's Counsel \$\_\_\_\_\_

ATTACHMENT 1

DESCRIPTION OF REAL PROPERTY  
RELATING TO THE PROJECT

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF LAND**

The Land is located in the County of San Bernardino, State of California, and is described as follows:

PARCEL 1

THAT PORTION OF LOTS 1, 2 AND 3, BLOCK 2, WEST HIGHLANDS, IN THE CITY OF SAN BERNARDINO, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 5, PAGE 77, OF MAPS, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

LYING SOUTHERLY OF THE SOUTHERLY LINE OF THE LAND CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED JANUARY 26, 1970, IN BOOK 7377, PAGE 588, OF OFFICIAL RECORDS OF SAID COUNTY.

PARCEL 2

THE NORTH HALF OF THAT PORTION OF WALNUT STREET, VACATED, ADJOINING LOTS 1, 2 AND 3, BLOCK 2, WEST HIGHLANDS, COUNTY OF SAN BERNARDINO, STATE OF CALIFORNIA, AS PER MAP RECORDED IN BOOK 5, PAGE 77 OF MAPS, RECORDS OF SAID COUNTY, DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID LOT, BLOCK 2;

THENCE SOUTH ALONG THE PROLONGED WEST LINE OF SAID LOT 1, A DISTANCE OF 41.25 FEET TO THE CENTER LINE OF SAID WALNUT STREET;

THENCE EAST ALONG CENTER LINE OF SAID WALNUT STREET, A DISTANCE OF 1237.70 FEET TO A POINT ON THE PROLONGED EAST LINE OF SAID LOT 3, DISTANT 41.25 FEET SOUTH OF THE SOUTHEAST CORNER OF SAID LOT 3;

THENCE NORTH ALONG THE PROLONGED EAST LINE OF SAID LOT 3 TO THE SOUTHEAST CORNER OF SAID LOT 3;

THENCE WEST ALONG THE SOUTH LINE OF LOTS 3, 2 AND 1 TO THE SOUTHWEST CORNER OF LOT 1, TO THE POINT OF BEGINNING.

EXCEPT THEREFROM THAT PORTION CONVEYED TO THE STATE OF CALIFORNIA, BY DEED RECORDED JANUARY 26, 1970 IN BOOK 7377, PAGE 588, OF OFFICIAL RECORDS.

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STATE OF CALIFORNIA                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2002, before me, \_\_\_\_\_, a notary public in and for said state, personally appeared \_\_\_\_\_, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

\_\_\_\_\_  
Notary Public